

BEFORE THE TENNESSEE REGULATORY AUTHORITY

In re: Proposed Rulemaking Implementing
Regulations for Telephone Telecommunications
Service Providers

REC'D TN
REGULATORY AUTH
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Docket No. 00-00873

OFFICE OF THE
EXECUTIVE SECRETARY

COMMENTS OF THE
CONSUMER ADVOCATE AND PROTECTION DIVISION
OF THE TENNESSEE ATTORNEY GENERAL'S OFFICE

The Attorney General of the State of Tennessee, by and through the Consumer Advocate and Protection Division of the Office of the Attorney General and Reporter for the State of Tennessee ("Attorney General"), respectfully submits the following comments in response to the Tennessee Regulatory Authority's Notice of Rulemaking regarding regulations for telephone telecommunications service providers. The comments are submitted by the Attorney General in its public interest role of protecting consumers through enforcement and investigatory powers under the Tennessee Consumer Protection Act and the Attorney General's activities before the Tennessee Regulatory Authority ("Authority").

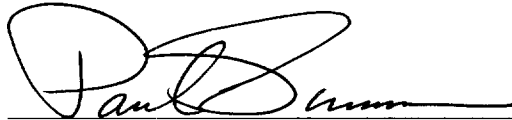
Service quality has become a significant problem for the telecommunications industry and the consumer. State Attorneys General throughout the nation have committed significant resources to combating this growing crisis.

Attached is a copy of the Attorney General's proposed redline version of the sections of the proposed amendments to be considered at the February 20, 2001 workshop. With the exception of these suggested edits, the Attorney General supports the proposed rules as written.

The Attorney General strongly supports the Authority's efforts toward carrying out the mandate given it by the Legislature. The Authority is faced with a growing crisis. The rule it

promulgates will go a long way toward slowing the obvious trend toward lower service quality in the telephone telecommunications industry.

RESPECTFULLY SUBMITTED,

A handwritten signature in black ink, appearing to read "Paul G. Summers", written over a horizontal line.

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A handwritten signature in black ink, appearing to read "Timothy C. Phillips", written over a horizontal line.

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CERTIFICATE OF SERVICE

I hereby certify that on February 15, 2001, a copy of the foregoing document was forwarded by U.S. Mail, postage prepaid, to the following parties of record:

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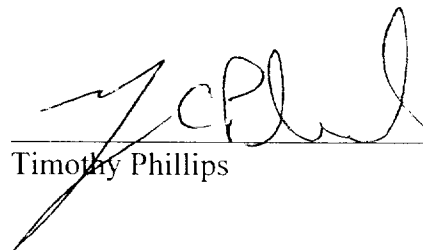
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Substance of Proposed Rules to be Considered at the February 20, 2001 Workshop

Amendments

Chapter 1220-4-2 Regulations for telephone telecommunications service providers is amended by deleting Rules 1220-4-2 -.01 through .42 of the chapter in their entirety and substituting the following new sections:

Table of Contents

1220-4-2-.10	Emergency Service Provisioning
1220-4-2-.11	Telephone Construction
1220-4-2-.16	Adequacy of Service
1220-4-2-.17	Basic Obligations for ETCs
1220-4-2-.18	Quality of Service Mechanisms
1220-4-2-.20	Number Conservation
1220-4-2-.21	Toll Free County Wide Calling

1220-4-2-.10 Emergency Service Provisioning

- (1) All telecommunications service providers shall take the appropriate measures to meet emergency situations including but not limited to electricity failure due to weather conditions and sudden and prolonged increases in network traffic.
- (2) Within 180 days of the effective date of this Chapter all telecommunications service providers are required to meet the following objectives:
 - (a) Central offices with installed emergency power generators will have a minimum of three (3) hours of battery capacity to handle the busy season, peak-traffic hours.
 - (b) Central offices without emergency power generators on site will have a minimum of five (5) hours battery capacity to handle the busy season, peak-traffic hours. These offices must have ready access to portable power generators that can be connected prior to battery capacity exhaust.
- (3) In periods of prolonged and massive service outages, telecommunications service providers have the authority to restrict local service to essential service providers such as the police and emergency service providers.

Statutory Authority: T. C. A. §§ 65-2-102, 65-4-104, 65-4-106, 65-4-117, 65-4-119, 65-4-120, 65-4-123, 65-4-124, 65-5-207, 65-21-114.

1220-4-2-.11 Telephone Construction

- (1) After the construction of plant by either the Telecommunications Service Provider or its contractors, it is the duty of each Telecommunications Service Provider to restore the property where the construction took place to as near the condition in which it existed prior to construction as possible within a reasonable period of time.
- (2) It is the duty of telecommunications service providers to comply with Tenn. Code Ann. 65-31-102 et seq. which includes, but is not limited to, contacting Tennessee One Call for the purpose of locating any underground utilities that may be damaged by proposed construction prior to installing facilities.
- (3) It is the duty of telecommunications service providers to comply with all local, state and federal construction standards and codes.

Statutory Authority: T. C. A. §§ 65-2-102, 65-4-104, 65-4-106, 65-4-117, 65-4-119, 65-4-120, 65-4-123, 65-4-124, 65-5-207, 65-21-114.

1220-4-2-.16 Adequacy of Service

~~Each ETC shall employ adequate engineering and administrative procedures and maintain the necessary network facilities to ensure adequate service is being provided to its customers.~~

Each ETC shall employ appropriate engineering and administrative personnel to maintain network infrastructure which should “at a minimum, be provided at the same level of quality as ... provided on June 6, 1995”¹ as well as meeting the requirements under 1220-4-2-.17 “Basic Obligations for ETCs”, 1220-4-2.18 “Quality of Service Mechanisms (QSMs) for ETCs” and all remaining applicable regulatory rules.

Statutory Authority: T. C. A. §§ 65-2-102, 65-4-104, 65-4-106, 65-4-117, 65-4-119, 65-4-120, 65-4-123, 65-4-124, 65-5-207, 65-21-114.

1220-4-2-.17 Basic Obligations for ETCs

- (1) Each ETC shall provide an adequate level of service to all of its customers. Service adequacy shall include the following requirements:

¹65-5-208 “Classification of services - Exempt services - Price floor - Maximum rates for non-basic services”.

- (a) Access lines providing voice grade basic service shall be capable of carrying data speeds effectively not less than 28.8 kilobits per second.
- (b) Lifeline and Link-up telephone assistance programs shall be tariffed with the Authority and provided to eligible customers in accordance with 1220-4-2-.19.
- (c) No less than 98% of primary service orders within an exchange shall be completed within three (3) working days, as measured on a monthly basis where construction is not required. Failure to meet this standard for two (2) consecutive months is deemed a violation of this Chapter.
- (d) No less than 90% of primary service orders within an exchange shall be completed within twenty (20) working days where construction is required as measured on a monthly basis. In the instance of any order for primary service where construction is required that cannot be completed within twenty (20) days, the ETC shall notify the Consumer Service Division in writing of the delay in providing primary service and the estimated date of providing service and any other information requested by Authority. Failure to meet this standard for two (2) consecutive months within an exchange is deemed a violation of this Chapter.
- (e) The ETC shall fulfill no less than 95% of its commitments to provide primary service on a date certain within an exchange as measured on a monthly basis. The ETC will contact the customer (when it cannot meet its established service appointment) at least 24 hours prior to service appointment and establish an alternative date and time. Failure to meet this standard in two (2) consecutive months is deemed a violation of this Chapter.
- (f) No more than four (4) trouble reports per 100 access lines per exchange in those exchanges that serve 5,000 or more access lines as measured on a monthly basis. Failure to meet this standard in two (2) consecutive months is deemed a violation of this Chapter.
- (g) No more than (5) trouble reports per 100 access lines per exchange in those exchanges that serve less than 5,000 access lines as measured on a monthly basis. Failure to meet this standard in two (2) consecutive months is deemed a violation of this Chapter.
- (h) No less than 95% of out-of-service trouble reports as measured on a monthly basis by exchange shall be restored within 24 hours. Failure to meet this standard in two (2) consecutive months is deemed a violation of this Chapter.

- (i) No more than 5% of out-of-service trouble reports as measured on a monthly basis by exchange shall be repeat trouble reports. Failure to meet this standard in two (2) consecutive months is deemed a violation of this Chapter.
- (j) Complete 98% of all calls during the average busy season, peak-traffic hours as measured on a statewide level without failure. Failure to meet this standard in two (2) consecutive months is deemed a violation of this Chapter.
- (k) A dial tone shall be provided within three (3) seconds on 99% of calls within each exchange. Failure to meet this standard in two (2) consecutive months is deemed a violation of this Chapter.
- (l) Provide sufficient facilities to accommodate realistic forecasted growth projections in access lines within each exchange.
- (m) Payment centers shall be provided in convenient locations where customers can physically pay for telephone service charges.
- (n) Provide adequate means whereby its (or the customers of a CLEC) customers can contact repair service at all hours.
- (o) No less than ninety (90%) percent of all calls to the ETC directed to intercept, directory assistance, business offices and repair service shall be answered, as described below, within thirty (30) seconds after the last digit is dialed by the caller.
 - 1. Notwithstanding (l) above, when a ETC utilizes an automated interactive answering system (hereafter referred to as "system"), at least ninety-five (95%) percent of the calls shall be answered within 15 seconds after the last digit is dialed. The initial recorded message to the customer shall only identify the Telecommunications Service Provider and the general options available to the customer. The option of transferring to a live attendant shall be included in the initial message.
 - 2. For customers electing the option of transferring to a live attendant, at least ninety-five (95%) percent of all such calls shall be transferred by the system to a live attendant prepared to give immediate assistance within fifty-five (55) seconds after the last digit of the telephone number listed in the directory for the ETCs' service is dialed.

3. At any time during the automated call, the customer shall be transferred to live assistance if the customer fails to interact with the system for a time period of ten (10) seconds following any prompt.

(p) ETCs shall provide Directory Assistance information in a manner which will permit consumers to make an informed cost decision: (1) to take advantage of: "No charge applies for first six (6) calls per billing period month requesting listing information for lines located within the state of Tennessee", and (2) to make an informed cost decision as to directory assistance charges for lines located outside the state of Tennessee.

(q) Employee Levels - ETCs shall provide data detailing employee levels assigned to 1. install services (construction not required), 2. Install services (construction required) 3. Directory Assistance (Operators) applicable for each exchange compared with June 6, 1995 levels.

(r) Access Lines - ETCs will provide the number of active access lines per exchange and provide a comparison versus June 6, 1995 levels.

(2) Carrier of last resort

- (a) Incumbent local exchange carriers designated by the Authority with ETC status have carrier of last resort obligations within their service area existing prior to June 6, 1995. Relinquishment of carrier of last resort obligations requires the approval of the Authority after considerations of how such relinquishment may affect the provisioning of universal service.

Statutory Authority: T. C. A. §§ 65-2-102, 65-4-104, 65-4-106, 65-4-117, 65-4-119, 65-4-120, 65-4-123, 65-4-124, 65-5-207, 65-21-114.

1220-4-2-.18 Quality of Service Mechanisms (QSMs) for ETCs

(1) Scope of Quality Service Mechanisms

- (a) The Authority recognizes the importance of quality telephone service to the economic well being of Tennessee. Customer expectations for quality telephone service must not be compromised as the State moves toward a more competitive environment for local telephone service. To maintain quality telephone service for all consumers, the Authority has designed Quality of Service Mechanisms ("QSMs"). QSMs are also designed for ETCs to compensate its or a CLECs customers for failing to obtain quality services within a reasonable time frame. QSMs shall be automatically invoked by the ETC within the exchange where the ETC violates any of the provisions of Rule Chapter 1220-4-2-.17 (1) (c)(d)(e)(f)(g)(h)(i)(j) and

~~(h)~~ (k) during any four (4) months ~~or two (2) consecutive months~~ within a calendar year. The ETC shall notify the Authority in writing ten (10) business days prior to invoking the QSMs.

- (b) QSMs shall not be applicable for any exchange for any month in which there is a declaration of a natural disaster or state of emergency issued by a federal, state or local authorities. The ETC shall not recover the cost of QSMs from its ratepayers. QSMs are not intended to limit ETCs from providing higher levels of compensation to their customers for failure to provide timely and quality service, but rather establish a floor of minimum compensation to their customers for providing an inadequate level of service.

(2) Installation of Primary Service Orders

- (a) An ETC shall automatically waive one-half (½) of the cost of installation of primary service orders within the exchange if the service is not installed within three (3) working days.
- (b) An ETC shall automatically waive 100% of the cost of installing primary service if the service order is not completed within five (5) business days.
- (c) An ETC shall automatically credit the affected customer an amount equal to \$5.00 per day for every day over five (5) working days the customer's primary service order is not worked. ~~up to a maximum of forty (40) days or \$200.~~
- (d) If the Authority finds that an ETC is knowingly not accepting orders for primary service within its franchise area, the ETC may have its state universal service support subsidies withheld for the affected exchange until orders are accepted. Any subsidy withheld will be submitted to the ETC once compliance with this Chapter is verified.

(3) Customer Trouble Reports

If an ETC violates 1220-4-2-.17 ~~(f)(g)~~(h) or (i) for any four (4) months within a calendar year within an exchange, the ETC shall automatically credit \$5.00 per trouble report to each customer that reported trouble within the four (4) month applicable time period. The credit, which will be applied to the customer's telephone account, will only apply to existing customers. If a customer terminates service before the credit is received, or is the customer of a CLEC, then that customer will be provided a refund check.

(4) Out-of-Service Clearing Time

- (a) If an ETC fails to achieve the 90% clearing time for out of service reports for four (4) months within a calendar year within an exchange, the ETC will take the following actions:
1. If a customer's service trouble is not cleared within 72 hours from the time the customer first reported the trouble to the ETC, the ETC shall automatically provide the customer a credit equal to the full monthly charge for that customer's basic local service.
 2. If the customer's service trouble is not cleared within 96 hours from the time the trouble was first reported to the ETC, the ETC shall automatically credit the customer's telephone account \$5.00 per day for each day the service is not working. ~~up to 40 days or \$200.~~
- (5) Reporting Requirement - Each local exchange telephone company shall submit to the Authority a monthly summary detailing the results of its operations and comparison with each of the standards established under the provisions of Rule Chapter 1220-4-2-.17 (1)(c)(d)(e)(f)(g)(h)(i)(j)(k) and (q) on an exchange basis. This summary will be filed with the current "TRA Service Standards Report" to be filed monthly with the Authority. The ETC will have until January 21, 2002 to make the results available electronically through the company's website.
- Additionally, the ETC that has triggered QSMs shall submit to the Authority a monthly summary of information provided the number of customers within an exchange receiving the credit or any other information as required by the Authority. These report summaries shall be filed no later than (20) days after the last day of the month covered by the report. The ETC will have until January 21, 2002 to make the results available electronically through the company's website.
- Finally, as part of the ongoing service quality review process, the Authority finds it appropriate to establish semiannual service quality presentations to be held in August and February. These presentations will detail the results of its service quality objectives as outlined in Chapter 1220-4-2-.17 (above) for the preceding 6 months and explain the reasons for any monthly failures to satisfy the standards and stating how the Company intends to remedy any deficiencies in its performance.
- (6) The remedial actions outlined in this section shall remain in effect until the ETC provides service within the service parameters within the particular exchange for three (3) consecutive months.

1220-4-2-.20 Telephone Numbering Conservation

- (1) Telecommunications service providers, or any other carrier operating in Tennessee assigned telephone numbers by the North American Numbering Plan Administrator (“NANPA”), shall take all appropriate measures to conserve telephone number resources, which include, but are not limited to the following:
 - (a) All telecommunications service providers, as well as any carrier assigned numbering resources by the NANPA within Tennessee, shall sequentially assign telephone numbers within each 1,000 block of numbers in accordance with FCC guidelines.
 - (b) Assignment of telephone numbers in uncontaminated 1,000 number blocks is not permitted until existing 1,000 blocks where number assignment is occurring achieves at a minimum of 75 percent utilization rate or at the utilization rate determined by the FCC.
 - (c) A telecommunications service providers that has designated rate centers within an area code shall take the necessary steps to consolidate its rate centers where deemed feasible by the Authority.
 - (d) All telecommunications service providers that are Local Number Portability (“LNP”) capable shall participate in 1,000 block pooling as ordered by the Authority.
 - (e) All telecommunications service providers, as well as any carrier assigned numbering resources by the NANPA within Tennessee, shall submit to the Authority upon request the results of a numbering resource utilization audit conducted by an independent auditor approved by the Authority.
 - (f) Any carrier assigned telephone number resources by the NANPA within Tennessee shall return any and all unused or insufficiently used 1,000 number blocks as ordered by the Authority.
 - (g) All telecommunications service providers shall comply with any other number conservation measures ordered by the Authority.

Statutory Authority: T. C. A. §§ 65-2-102, 65-4-104, 65-4-106, 65-4-117, 65-4-119, 65-4-120, 65-4-123, 65-4-124, 65-5-207, 65-21-114.

1220-4-2-.21 Toll Free County-Wide Calling

Telecommunications Service Providers shall provide toll-free calling on calls originating and terminating within the same county consistent with all applicable law.

Statutory Authority: T. C. A. §§ 65-2-102, 65-4-104, 65-4-106, 65-4-117, 65-4-119, 65-4-120, 65-4-123, 65-4-124, 65-5-207, 65-21-114.

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